



The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

April 26, 2005

Ralph Buchanan  
36 Acorn Drive  
Ossipee, NH 03864

Re: Docket No. AF 04-061 Motion to Accept Settlement Agreement

Dear Mr. Buchanan:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on April 21, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

**COPY**

Michael P. Sclafani,  
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division  
Gretchen R. Hamel, Administrator, DES Legal Unit  
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit  
James Martin, DES Public Information Officer  
Lynn A. Woodard, DES WMDT  
Thomas R. Beaulieu, DES WMD  
Tammy Calligandes, DES WMD

Ralph Buchanan  
36 Acorn Drive  
Ossipee, NH 03864

**ADMINISTRATIVE FINE  
No. AF 04-061**

Re: Ossipee Sub Station  
63 Gilford East Drive  
Ossipee, NH – UST ID # 0-110511

**MOTION TO ACCEPT SETTLEMENT AGREEMENT**

NOW COME the Department of Environmental Services, Waste Management Division (“the Division”) and Ralph Buchanan, parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services (“DES”), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Ralph Buchanan is the registered facility owner of two 10,000 gasoline underground storage tanks (USTs) at the Ossipee Sub Station facility (“the Facility”), further identified as UST #0110511, located on real property at 63 Gilford East Drive, Ossipee, NH (“the Property”).
3. On October 13, 2004, the Division issued Notice of Proposed Administrative Fine No. AF 04-061 (“the Notice”) to Ralph Buchanan, seeking fines totaling \$2,200 for violations of New Hampshire Administrative Rule Part Env-Wm 1401 regarding the USTs.
4. Specifically, the Notice cited Ralph Buchanan for violating Env-Wm 1401.07 (c) by failing to display and permanently affix a permit at the Facility. Pursuant to Env-C 607.02(b) the Division sought a fine of \$100.
5. The Notice further cited Ralph Buchanan for violating Env-Wm 1401.11(a) by failing to maintain accurate stock inventory records for the 10,000-gallon gasoline UST (Tank 4) in accordance with RSA 146-C:5 and Env-Wm 1401.11. Pursuant to Env-C 607.05(a) the Division sought a fine of \$500.
6. The Notice further cited Ralph Buchanan for violating Env-Wm 1401.25(d) by failing to properly install and maintain overfill protection equipment on Tank 4 and the compartment 10,000-gallon UST (split 5,000-gallon diesel/5,000-gallon gasoline). Pursuant to Env-C 607.05(j) the Division sought a fine of \$600.

7. The Notice further cited Ralph Buchanan for violating Env-Wm 1401.31(a) by failing to maintain leak monitoring equipment in good working order at all times to continuously perform its original design function. Pursuant to Env-C 607.05(d) the Division sought a fine of \$1,000.
8. In order to settle this matter, the Division and Ralph Buchanan have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
9. Of the proposed fine in the amount of \$2,200, 20% or \$440 shall be suspended due to this being a one-time, unintentional violation. An additional 20% or \$440 shall be suspended due to the respondent's cooperation in returning the facility to a compliance status by temporary closing the USTs. An additional 20% or \$440 shall be suspended due to the respondent's small business status.
10. The suspended portion of the proposed fine in the amount of \$1,320, is contingent on Ralph Buchanan maintaining the subject facility in compliance with New Hampshire Administrative Rules Env-Wm 1401 for a period of two years from the date of the execution of this document. If Ralph Buchanan fails to maintain compliance during the two-year period, the suspended portion of the proposed fine in the amount of \$1,320 shall become due and payable immediately. If Ralph Buchanan maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived.
11. Ralph Buchanan agrees to pay the remaining \$880 upon execution of this Agreement.
12. Payment under Paragraph #11, and any payment that becomes due pursuant to Paragraph #10 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:  
  
DES Legal Unit  
Attention: Michael Sclafani, Legal Assistant  
P.O. Box 95  
Concord, NH 03302-0095
13. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
14. By executing this Agreement, Ralph Buchanan waives his right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
15. The effective date of this Agreement will be on which it is signed by Ralph Buchanan, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been

accepted by the Commissioner.

16. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,

Apr 12 2005  
Date

**COPY**  
Ralph Buchanan  
Ralph Buchanan, Owner  
Ossipee Sub Station facility

4/21/05  
Date

DES Waste Management Division  
**COPY**  
Anthony Giunta  
Anthony Giunta, Director

This Motion to Accept Settlement agreement is granted this 21<sup>st</sup> day of APRIL, 2005.

**COPY**  
Michael P. Nolan  
Michael P. Nolan, Commissioner  
Department of Environmental Services